



GSA Mid-Atlantic Region

**NASA Langley Research Center – Measurement Systems Laboratory, Hampton, VA**

**Contract No: GS-03-P-17-DX-C-0005**

**Buy America Exception Request – Absorption Chiller**

**Background**

The subject contract was awarded to WM Jordan Company, Inc (Contractor) for general construction of the Measurement Systems Laboratory at the NASA Langley Research Center in Hampton, VA.

A base award in the amount of \$93,208,160 increased in the amount of \$3,546,000 as a result of exercising a number of pre-negotiated options to include one option in the amount of \$2,700,000 for the Building Automation System, totaling \$96,754,160.

During the design phase, when considering specifications for chillers to be included in this building, NASA stated its preference to maximize the use of available sustainable source of energy currently available on campus, steam. Accordingly, the specifications for this project were finalized to include an absorption chiller, one of the three chillers required for the building. Traditional chillers use electricity as its energy source, however, an absorption chiller is designed to utilize an alternative source of energy. Utilizing steam as that energy source provides NASA the opportunity to promote and support a sustainable system while earning points towards their goal of LEED Gold status for the Measurement Systems Laboratory.

A Request for Information (RFI) was presented by a potential contractor during the pre-award stage regarding the inability to satisfy the specifications of the absorption chiller with a product manufactured in the United States. The Government response to that RFI was "To the extent that certain equipment is not available domestically, please comply with the procedures outlines in 52-22511 Buy America – Construction Materials under Trade Agreements (May 2014)."

**Requirement**

The chiller selected to satisfy the size, technology and energy source requirements in addition to inter-communication with the Building Automation System (BAS) selected by the customer post award is a Steam Absorption Packaged Water Chiller, with a Unit of Measure of 425 nominal tons of cooling. According to the contractor, a chiller of this size and capability is not manufactured in the United States and therefore selected (b)(4) a manufacturer located in (b)(4) India. Since India is not a Trade Agreement country, the contractor is requesting exception to Buy America based on FAR clause 52.225-11 (b)(4)(iii), which states, "The construction material is not mined, In produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality." The proposed cost of the chiller is (b)(4)

William Faustman, GSA Project Manager consulted with Michael Sullivan, GSA Engineer and Subject Matter Expert and the project architectural firm, AECOM, to confirm the lack of domestic availability for the specified equipment. Both parties confirmed based on consultation with industry experts and other available resources, an absorption chiller of this size and ability is not manufactured in the United States.

#### Recommendation

The Contractor has submitted a request to waive the Buy America requirement for an absorption chiller to satisfy the specifications provided by the Government. The decision by the Government to require an absorption chiller, one of three chillers to be installed at the project, is based upon the desire to utilize a sustainable energy source that is readily available and free to the customer agency. In addition, using steam as an energy source contributes points towards our customer's goal to obtain LEED Gold certification for the MSL building.

Based upon the Government's verification of information received from the contractor to include absorption chiller waivers from the Department of Energy, the Contracting Officer recommends approval of the Contractor's request for exception to Buy America requirement as it relates to the purchase of the absorption chiller specified.

Recommendation:

(b)(6)

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Monica McGrath, GSA PBS Contracting Officer

Concurrence:

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Jay Oxenberg, GSA PBS Contracting Officer and Supervisor

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(Acting for John Singleton)

John Singleton, GSA PBS AMD Branch Chief

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7/5/17

Liliana Del Bonifro, GSA PBS/AMD Director

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7/6/2017

Robert J McCall, GSA Legal Counsel

In accordance with GSAM part 525.202 Exceptions, the Head of Contracting Authority agrees the absorption chiller recommended by said Contractor is the best solution for this project and approves the exception to Buy America, as requested.

Approval:

(b)(6)

7/10/17

Joanna Rosato, GSA PBS Head of the Contracting Authority